

## § 37.199

to extend its useful life for five years or more, where the purchase or lease occurs after the date on which this subpart applies to the entity and during the period in which the useful life of the vehicle is extended.

(b) In any situation in which this subpart requires an entity purchasing or leasing a new OTRB to purchase or lease an accessible OTRB, OTRBs acquired through the actions listed in paragraph (a) of this section shall, to the maximum extent feasible, be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) For purposes of this section, it shall be considered feasible to remanufacture an OTRB so as to be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless an engineering analysis demonstrates that including accessibility features required by this part would have a significant adverse effect on the structural integrity of the vehicle.

### **§ 37.199 Compensation for failure to provide required vehicles or service.**

(a) Operators shall pay compensation to passengers with disabilities as provided in this section in the following situations:

(1) If a demand-responsive operator under § 37.189 or a small mixed-service operator under § 37.191 fails to provide in a timely manner an accessible OTRB to a passenger with a disability who has made a timely request for such a bus;

(2) If a fixed-route operator providing interim service under § 37.193(a)(1) fails to provide in a timely manner an accessible OTRB to a passenger with a disability who has made a timely request for such a bus;

(3) If a small fixed-route operator who chooses to provide equivalent service under § 37.183(b)(2) fails to provide equivalent service to a passenger;

(4) If required service is not provided to a passenger with a disability because accessibility equipment does not function or operator personnel do not perform essential tasks;

(5) If, for a trip involving an interline connection (see § 37.187), the operator

## 49 CFR Subtitle A (10–1–99 Edition)

with whom the passenger purchases the ticket or makes a reservation for the trip fails to communicate immediately with other operators providing a portion of the trip to inform them of the need for an accessible bus or equivalent service, as applicable, with the result that other operators do not provide the service required by this subpart; or

(6) If an operator required to provide interim service under § 37.169, after the date on which this subpart begins to apply to the operator, fails to provide this service.

(b) When one of the events in paragraph (a) of this section calling for compensation occurs, the operator shall pay compensation regardless of the reason for the failure to provide the required service. The only exception to this requirement is a situation in which, for reasons beyond the control of the operator, no transportation is provided to any passenger.

(c) The amount of the compensation shall be the following:

(1) On the first occasion on which the operator fails to provide the required service as provided in paragraph (a) of this section to any passenger, \$300;

(2) On the second such occasion, \$400;

(3) On the third such occasion, \$500;

(4) On the fourth such occasion, \$600;

(5) On the fifth and subsequent such occasions, \$700.

(d) The operator shall provide this compensation to the passenger within seven working days of the date on which the operator failed to provide the accessible OTRB or provide equivalent service, as applicable.

(e) Payment of compensation under this section is not a defense to legal action brought against the operator to enforce the Americans with Disabilities Act or this part.

### **§ 37.201 Intermediate and rest stops.**

(a) Whenever an OTRB makes an intermediate or rest stop, a passenger with a disability, including an individual using a wheelchair, shall be permitted to leave and return to the bus on the same basis as other passengers. The operator shall ensure that assistance is provided to passengers with disabilities as needed to enable the passenger to get on and off the bus at the stop (e.g., operate the lift and provide